REMARKS

In item 3 of the Office Action, the Examiner rejected Claims 1 – 7 under the provision of 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Reconsideration in view of this amendment is respectfully requested.

In response Claims 1 – 7 have been amended to clearly and distinctly describe the invention, and specifically, the limitation "the mains" has been canceled. No new matter has been added and the claims are fully supported in the original disclosure. For these reasons, it is requested that the rejection of the claims under 35 U.S.C. § 112 paragraph second be withdrawn.

In item 5 of the Office Action, the Examiner notes the present application currently names joint inventors, and in considering patentability of the claims under 35 U.S.C. 103(a), the Examiner presumes that the subject matter of the various claims were commonly owned at the time.

Applicants acknowledge herein that all subject matter of the invention was commonly owned at the time the claims were made.

In item 6 of the Office Action the Examiner rejected Claims 1 - 6 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,084,947 to Ear ("Ear") in view of United States Patent No. 5,690,093 to Schrank et al., ("Schrank").

Reconsideration in view of this amendment is respectfully requested.

The claims, as presently amended, are directed to a remote control system for a motor fan group of an extractor fan for kitchen or industrial use. **The novel venting system comprises a removable motor fan that can be located within the hood of a venting system or out side the building in which the desired fumes are to be removed**. The instant application inventively allows the operator to choose the location of the motor fan within the venting system, and also provides for the possibility of multiple external motor fan units, i.e. see amended Claim 1 wherein "said motor fan group (22) can also be installed inside at least one protective casing (10)." The extractor

fan is equipped with a power socket that can supply electricity directly to the motor fan group within the hood of the fan or be connected via multi-way connectors to the motor group at remote locations. The invention contemplates the use of multiple motor fans at multiple locations capable of being controlled to perform at various speeds.

The Examiner has suggested that Ear discloses a similar invention to the one found in instant Claims 1-6. Moreover, the Examiner notes that Ear discloses a removable control system for a motor (20) for an extractor fan (18) where the motor is a separate casing from the fan, uses a delivery duct (19), has a protective cover (55) for the casing, and is mounted on the roof of a building.

Applicant acknowledges that Ear describes a pollution control system (10) including a hood (12) for collecting gases from the area over a broiler (11) with a fan on the roof of a building. See Ear at Col. 2 lines 49-51. Specifically, Ear describes a venting system with a "coalescing filter" (14) in a vertical standpipe (41) (which extends from the hood) with a means for periodically washing the filter within the standpipe. See Ear at Col 3, lines 43-45. Further, the sheer size and form of the Ear filter mandates that that the blower (18) can only be placed above the hood (12) and filter (14).

Further, the Examiner's position that "because the motor (20) is shown in a separate casing from the fan (18)" makes it interchangeable disregards the fact that presently claimed motor fan groups can be placed within the "hood" of the system or remotely located, see instant Figures 2 and 4. As such, Ear teaches away from the present invention because the Ear venting system will not work if the fan is located within the "hood" of the venting system. "A *prima facie* case of obviousness can be rebutted if the applicant... can show 'that the art in any material respect taught away' from the claimed invention," see *In re Geisler* 116 F3d 1465, 1469, 43 USPQ2d 1362, 1365 (Fed. Cir. 1997).

Although the Examiner noted that the casing of Ear is capable of "foreseeing" the uses of a fitting, duct, protective cover, and non-return valve and the mounting of high, medium, low suction power motor groups there is no motivation or suggestion to locate the motor fans in the hood or in multiple locations out side the building. A *prima facie* case of obviousness requires that all claim limitations be taught or suggested in the prior

art, see Manual of Patent Examining Procedure, 2143.03 (8th Ed. Rev. 1 Feb. 2003) (citing cases)

Further, the Examiner noted that Ear "does not show an electrical connection or multiple connection blocks," however, the Examiner suggested that Schrank teaches a remote control system. A fair reading of Schrank discloses a conventional range hood for venting a stove area with a "fan at one of a plurality of possible fan speeds," see Schrank at Claim 1. Schrank teaches adjustable fan speed with "a control circuit [that] responds to depression of one or a plurality of the keys and in response selects one of a plurality of possible fans speeds," that is located adjacent to the fan in the hood, see Schrank at Col. 1, line 64 through Col. 2, line 44, and Figure 1.

In sharp contrast to the present invention Schrank in no way suggests or motivates one to place the motor fans, optionally, in remote locations and remain electrically connected. The Federal Circuit has held that there is no motivation to combine if a reference teaches away from its combination with another source, (see *Texas Instruments Inc. v. U.S. Int'l Trade Comm'n*, 988 F.2d 1165, 1178, 26 USPQ2d 1018, 1028 (Fed. Cir. 1993)), at least "as a 'useful general rule,'" Id., 26 USPQ2d at 1028.

The instant invention is not taught nor suggested in the cited prior art. For these reasons the §103(a) rejection over Ear in view of Schrank is not proper. Withdrawal of the rejection is therefore respectfully requested.

In item 7 of the Office Action the Examiner rejected Claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Ear in view of Schrank et al. as applied to Claim 6 above, and further in view of U.S. Patent No. 5,027,790 to Chern ("Chern")

The Examiner cites Chern because he teaches a modified motor that incorporates a fan and it would have been obvious to a person of skill in the art at the time the invention was made to modify the motor of Ear to incorporate the exhaust fan of Chern.

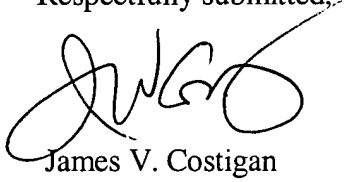
However, even if one were to combine the motor fan of Chern, the remotely operated speeds used by Schrank and combined them with the roof top fan of Ear the result would be a multi-speed exhaust motor fan on top of a standpipe filter apparatus that **cannot be optionally placed within the hood** of the venting system. As presently suggested, if, when combined the references "would produce a seemingly inoperable

device" then they teach away from their combination, see *Tec Air Inc v. Denso Mfg. Michigan, Inc.* 192 F.3d1353, 1360 52 USPQ2d 1294, 1298.

Further, it is impermissible to use the presently claimed invention as an instruction manual or template to piece together the teachings of the cited prior art so that the claimed invention is rendered obvious. *In re Gorman*, 933 F. 2d 982, 987, 18 USPQ2d, 1885, 1888 (Fed. Cir. 1991). See also, *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985). Also, the courts have stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." *In re Fine,* 837 F.2d 1071, 1075, 5 USPQ2d at 1600 (Fed. Cir. 1988). As such, removal of the rejection under 35 U.S.C. §103(a) is therefore respectfully requested.

In view of the foregoing discussion, applicant respectfully submits that the pending claims are allowable over the cited prior art. Allowance of the claims is therefore respectfully solicited.

Respectfully submitted,



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